

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Michael Darnell Thomas,

Case No. 6:18-cv-02923-TLW

PLAINTIFF

v.

Order

Warden Stephon, et al.,

DEFENDANTS

Plaintiff Michael Darnell Thomas, proceeding pro se, alleging violations of his constitutional rights while an inmate in the custody of the South Carolina Department of Corrections. ECF No. 1. The matter now comes before the Court for review of the Report and Recommendation (Report) filed by the magistrate judge to whom this case was assigned. ECF No. 20.

In the Report, the magistrate judge recommends that the Complaint be dismissed without issuance and service of process pursuant to Rule 41(b) due to Plaintiff's failure to comply with a court order. *Id.* at 4. The magistrate judge had previously issued an order outlining deficiencies in the complaint and giving Plaintiff ample time to file an amended complaint to correct those deficiencies.<sup>1</sup> ECF No. 15. Plaintiff failed to take the opportunity given to him to file an amended complaint or otherwise respond to the order, at which point the magistrate judge issued the Report.

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<sup>1</sup> That order came after two earlier proper form orders directing him to properly complete the summonses. ECF Nos. 7, 11.

Plaintiff then filed objections, but again failed to file an amended complaint. ECF No. 22. This matter is now ripe for decision.

In reviewing the Report, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections . . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

*Wallace v. Hous. Auth. of City of Columbia*, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in *Wallace*, the Court has reviewed, *de novo*, the Report and the objections. After careful review of the Report and the objections, for the reasons stated by the magistrate judge, particularly Plaintiff's failure to follow the magistrate judge's order giving him an opportunity to file an amended complaint, the Report is **ACCEPTED**. His objections are **OVERRULED**. His Complaint is hereby **DISMISSED WITH PREJUDICE**.

**IT IS SO ORDERED.**

*s/ Terry L. Wooten*  
 Terry L. Wooten  
 Senior United States District Judge

September 28, 2021  
 Columbia, South Carolina